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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,932	08/28/2003	Lawson A. Wood	AW-20	6102

7590 06/09/2005  
L. Allen Wood  
873 N. Frederick St.  
Arlington, VA 22205

EXAMINER
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LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/649,932

Applicant(s)

WOOD, LAWSON A.

Examiner

Wen-Tai Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/28/03, 1/12/05.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-17 and 21-26 are presented for examination. Claims 18-20 have been canceled in response to the previous restriction.

2. Claims 1-17 and 21-26 are objected to because the following terms lack antecedent basis:

In claim 1, "the communication system";

In claim 21, "the desired musical composition"; and

In claim 23, "the desired composition".

Further, the phrase "at least" in claim 14 appears to be a typo of "at least one".

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 11-17 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser; et al. (hereafter "Wiser") [U.S. Pat. No. 6385596] in view of

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McNab et al.(hereafter "McNab")["The New Zealand Digital Library MELody inDEX", May 1997].

5. Both Wiser and McNab are cited from Applicant's IDS.

6. As to claims 1-2 and 6-7, Wiser teaches the invention substantially as claimed including: a method for distributing music over the internet [col.3, lines 5-10], comprising the steps of:

(b) sending information to identify the musical compositions in writing to the person over the internet [Fig.8; col.14, lines 40-47];

(c) receiving a request from the person over the communication system for an audio preview of one of the musical compositions, which has been selected by the person [col.14, lines 48-51];

(d) sending a corrupted version of some or all of the selected musical composition to the person over the internet [col.3, lines 50-63; that is, the low quality audio data for preview is a corrupted version of some or all of the musical composition];

(e) receiving a request from the person over the internet for the selected musical composition without corruption [col.29, lines 65-67]; and

(f) sending the selected musical composition without the corruption to the person [col.30, lines 20-22; col.3, lines 54-55].

Wiser; does not specifically teach the step of :

(a) recognizing a plurality of musical compositions from a specimen provided by a person, by comparing a pattern derived from the specimen with patterns from a pattern library, wherein the pattern derived from the specimen comprises pitch and duration information.

However, McNab teaches a method for identifying and retrieving melodies from a database on the basis of a few notes [i.e., a specimen] sung into a microphone [Abstract], wherein the specimen comprises pitch and duration information [see, e.g., paragraphs #2-3 on page 3 and paragraph #1 on page 4].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combine the teachings of Wiser; and McNab by applying McNab's specimen query technique in Wiser's online music distribution system, because McNab's method provides a natural and convenient way of specifying a music or song for purchase.

7. As to claim 3, Wiser and McNab does not specifically teach providing the person with a set of tempos to choose from and a set of keys to choose from before the person vocalizes the specimen.

However, tuning with selected tempos and keys before vocalizing is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such a tuning process to the person because it would further reduce error in the pattern matching process.

8. As to claim 4, Wiser and McNab teaches that the specimen can be provided through singing or humming or playing (on an instrument) [see Abstract: lines 1-6]. For the latter, it is obvious to use a simulated musical instrument for playing a selected set of notes because simulated musical instrument can be conveniently sending out electronic signals to Wiser; and McNab's database for comparison.

9. As to claim 5, McNab further teaches receiving the specimen over the internet and then deriving the pattern from the specimen [paragraphs 3 and 5 on page 2].

10. As to claims 11-12, Wiser; further teaches that the corrupted version sent in step (d) has noise superimposed on it [col.7, lines 17-19; that is, watermarking has an effect of superimposing noise on the audio data, resulting in slightly blurred audio image]. Additionally, it is also well known in the art that adding random noise or structured noise (such as clicking sound) would lower the quality of music.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to superimpose noise as a means for providing Wiser;'s low quality music segments for preview because it is relatively easier to make the noise.

11. As to claim 13, Wiser; further teaches securing payment for the musical composition without corruption before conducting step (f) [Abstract; i.e., the music is decrypted only after payment is done].

12. As to claims 14-17 and 21-26, since the features of these claims can also be found in claims 1-7 and 11-13 they are rejected for the same reasons set forth in the rejection of claims 1-7 and 11-13 above.

13. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser; et al.(hereafter "Wiser") [U.S. Pat. No. 6385596], and McNab et al.(hereafter "McNab") ["The New Zealand Digital Library MELody inDEX", May 1997], as applied to claims 1-7 and 11-13 above, further in view of Hoffert et al. (hereafter "Hoffert") [U.S. Pat. No. 6282549].

14. Wiser, McNab, and Hoffert are cited from Applicant's IDS.

15. As to claims 8-10, Wiser teaches sending low quality samples for preview. Wiser and McNab does not specifically teach that the corrupted version sent in step (d) comprises one or a plurality of short-duration snippet of the musical composition, wherein the duration of the snippet is less than about 15 seconds.

However, Hoffert [U.S. Pat. No. 6282549] teaches that the preview data may include snippets of audio information [col.30, lines 1-2; col.23, lines 19-24].

It would have been obvious to one of ordinary skill in the art at the time the invention was made that there are a lot of ways to make Wiser;'s low quality music and

Hoffert [U.S. Pat. No. 6282549]'s method is one of them because Wiser; does not exclude the use of snippets during preview.

Further, it is obvious that the preview duration should be set to long enough just for a nominal person to identify the subject, but not too long to entertain the consumer or overload the network. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to have set the duration of a snippet around certain empirical values; among them, a value less than about 15 seconds is a potential choice in Wiser; and McNab's system.

### ***Conclusion***

**Examiner note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

(571)273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

June 7, 2005

*Wen-Tai Lin*  
6/7/05